

FCC MAIL SECTION

Federal Communications Commission

DA 00-200

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Before the
DISPATCHED BY Federal Communications Commission
Washington, D.C. 20554

In the Matter of)	
)	
Request for Review)	
of the Decision of)	
the Universal Service Administrator by)	
)	
Providence Seward Medical Center)	File No. RHCD-10382-1
)	
Federal-State Joint Board on Universal Service)	CC Docket No. 96-45 ✓
)	
Changes to the Board of Directors of the)	CC Docket No. 97-21
National Exchange Carrier Association, Inc.)	

ORDER

Adopted: February 3, 2000

Released: February 3, 2000

By the Common Carrier Bureau:

1. This Order dismisses the Letter of Appeal of the Providence Seward Medical Center (Providence) in Alaska, which seeks review of a decision issued by the Rural Health Care Division (RHCD) of the Universal Service Administrative Company (USAC or Administrator).¹ Providence is a rural health care provider that receives telecommunications service from GCI. RHCD declined Providence's request for support from the universal service support mechanism for rural health care providers because GCI was not an "eligible telecommunications carrier" (ETC) as required by the Commission's rules at that time. For the reasons set forth below, we dismiss Providence's appeal as moot.

2. The Commission's universal service support mechanism for rural health care providers is a product of the Telecommunications Act of 1996 (1996 Act).² In the 1996 Act, Congress sought to provide rural Americans with affordable access to quality health care by giving rural health care providers the opportunity to buy telecommunications services at rates that are reasonably comparable to those charged to urban residents. Congress did this by adding section 254(h)(1)(A) to the Communications Act of 1934.³ Section 254(h)(1)(A) directs all

¹ Letter from Jim Sefton, Supervisor, Providence Seward Medical Center to Federal Communications Commission, dated September 27, 1999 (Providence Letter).

² Pub. L. No. 104-104, 110 Stat. 56 (1996 Act).

³ 47 U.S.C. §§ 151 *et seq.* (Act). (Hereinafter, all citations to the 1996 Act and the Act will be to the Act as

telecommunications carriers to provide telecommunications services to any public or non-profit rural health care provider at rates that are reasonably comparable to rates charged for similar services in urban areas in the same state.⁴

3. On May 8, 1997, the Commission released the *Universal Service Order* to implement section 254.⁵ The Commission subsequently appointed USAC to administer the universal service support mechanism that the Commission established for rural health care providers.⁶ In the *Universal Service Order*, the Commission concluded that only telecommunications carriers that are designated as ETCs could receive universal service support for serving rural health care providers. Because a carrier must offer certain specific local telecommunications services prior to being designated as an ETC by a state commission, most interexchange carriers, like GCI, have not become ETCs. Few ETCs, however, can provide the entire telecommunications circuit between, for example, a rural health clinic and an urban hospital in Alaska.⁷ Consequently, on September 21, 1999, the Commission adopted the *ETC Order*, which eliminates the ETC requirement for participation in the rural health care support mechanism.⁸

it is codified in the United States Code.)

⁴ 47 U.S.C. § 254(h)(1)(A).

⁵ *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Report and Order, 12 FCC Rcd 8776 (1997), as corrected by *Federal-State Joint Board on Universal Service, Errata*, CC Docket No. 96-45, FCC 97-157 (rel. June 4, 1997), *affirmed, reversed, and remanded in part sub nom. Texas Office of Public Utility Counsel v. FCC*, 183 F.3d 393 (5th Cir. 1999), motion for stay granted in part (Sept. 28, 1999), petitions for rehearing and rehearing *en banc* denied (Sept. 28, 1999) (*Universal Service Order*).

⁶ *Changes to the Board of Directors of the National Exchange Carrier Association, Inc. and Federal-State Joint Board on Universal Service*, Second Report and Order and Second Order on Reconsideration, CC Docket No. 97-21 and 96-45, 12 FCC Rcd 18400 (1997) (*NECA Order*). In the *USAC Reorganization Order*, released on November 20, 1998, the Commission directed USAC to assume responsibility for the schools and libraries support mechanism and the rural health care support mechanism effective January 1, 1999. See *Changes to the Board of Directors of the National Exchange Carrier Association, Inc., Federal-State Joint Board on Universal Service*, CC Docket Nos. 96-45, 97-21, Third Report and Order and Fourth Order on Reconsideration, and Eighth Order on Reconsideration, 13 FCC Rcd 25058 (1998) (*USAC Reorganization Order*). The Schools and Libraries Corporation (SLC) and the Rural Health Care Corporation (RHCC) previously administered these programs, respectively, which have since been merged into USAC in accordance with the *USAC Reorganization Order*. *Id.*

⁷ See, e.g., Providence Letter at 1. Providence's letter explains that Providence arranged to receive service from GCI because Providence needed T-1 transmission for the provision of health care services, and its local telecommunications carrier, GTE Alaska, did not provide that service. *Id.*

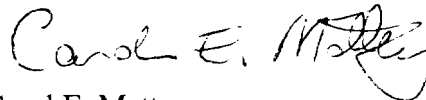
⁸ *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Fourteenth Order On Reconsideration, FCC 99-256 (rel. Nov. 3, 1999) (*ETC Order*).

4. In the *ETC Order*, the Commission concluded that all telecommunications carriers that provide services supported by universal service to eligible rural health care providers at a discount, pursuant to section 254(h)(1)(A), are entitled to have the total amount of the discount treated as a contribution to the preservation and advancement of universal service. Accordingly, in the *ETC Order*, the Commission directed USAC to apply, as a credit against a carrier's universal service contribution obligation, the amount equal to the difference between the lower, urban rate that a carrier charges eligible health care providers for supported telecommunications services and the higher, rural rates that would normally be charged to these customers.⁹ In addition, a telecommunications carrier may request reimbursement if its total universal service credit exceeds its contribution obligation.¹⁰ In order to ensure that the greatest number of rural health care providers receive the full benefit of the universal service support mechanism as soon as possible, the Commission made the changes in the *ETC Order* applicable to all pending and future requests for support, effective upon publication in the Federal Register.¹¹ The *ETC Order* was published in the Federal Register on November 16, 1999.¹²

5. The Administrator has since reviewed Providence's pending application, and in light of the changes in the Commission's rules, has determined that GCI may be credited for providing telecommunications service to Providence at the urban rate. Accordingly, the Administrator has issued a new letter to Providence indicating that, upon receipt of confirmation from Providence of the information that it has submitted to date, Providence will receive the benefit of an estimated \$53,000 from the universal service support mechanism for rural health care providers. Because RHCD, as indicated above, has taken steps to favorably resolve the matter that is at issue before us, we dismiss Providence's appeal as moot.

6. ACCORDINGLY, IT IS ORDERED, pursuant to authority delegated under sections 0.91, 0.291, and 54.722(a) of the Commission's rules, 47 C.F.R. §§ 0.91, 0.291, and 54.722(a), that the Letter of Appeal filed by the Providence Seward Medical Center IS DISMISSED AS MOOT.

FEDERAL COMMUNICATIONS COMMISSION



Carol E. Matthey
Deputy Chief, Common Carrier Bureau

⁹ *Id.* at para. 1.

¹⁰ *Id.*

¹¹ *Id.* at para. 24.

¹² 64 Fed. Reg. 62,120 (1999).